

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2680 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

and

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SAVJIBHA GANGJIBHAI AYAR

Versus

NARANJI MEGHRAJJI PIGAR

Appearance:

MR RAJNI H MEHTA for Petitioners
MR SURESH M SHAH for Respondent No. 1
NOTICE SERVED for Respondent No. 3

CORAM : MR.JUSTICE D.C.SRIVASTAVA

and

MR.JUSTICE H.K.RATHOD

Date of decision: 20/06/2000

ORAL JUDGEMENT

This is an appeal against the interim award under section 163-A of the Motor Vehicles Act rendered by the Motor Accident Claims Tribunal, Kachchh at Bhuj on 31.5.1997 awarding sum of Rs. 2,92,500/- as interim compensation together with interest at the rate of 15% per annum from the date of the application till the

deposit and also awarding cost of the application.

We have heard Shri A.R. Mehta, learned counsel appearing for the appellants and Shri M. S. Shah, learned counsel appearing for the respondents nos. 1 and 2. Notice of respondent no. 3 has been served. None appears on his behalf.

Learned counsel Shri Mehta has argued that since this application for interim award under section 163-A was filed by the parents of the deceased, while granting interim compensation, the tribunal should have taken into account the ages of the parents. Since this has not been done, the impugned award cannot be sustained in the eyes of law. We do not find much force in this contention. This plea may be raised in a petition under section 166 of the Motor Vehicles Act where the Tribunal may adjudicate whether the ages of the parents are to be considered for awarding requisite compensation or not. So far as section 163-A is concerned, it provides that notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorized insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, (emphasis supplied by us) to the legal heirs or the victim, as the case may be.

It is, therefore, clear that while granting award under section 163-A of the Motor Vehicles Act, the Tribunal is bound to consider only the particulars indicated in the Second Schedule. We have gone through the Second Schedule. It does not speak of the ages of the parents. The first column shows the ages of the victim and the second and third column are multiplier and income of the victim. Since in the Second Schedule, the legislature did not intend to indicate and disclose the ages of the parents of the victim, we are unable to accept the submission of Shri Mehta that while awarding interim compensation under this Second Schedule, the tribunal should also have considered the ages of the parents of the victim.

No other infirmity is found in the interim award. The appeal is, in these circumstances, liable to be dismissed and is hereby dismissed with no order as to costs.

Before parting with this judgment, we direct the appellants to deposit Rs.2,92,500/- together with interest at the rate of 15% per annum and costs in the

tribunal within a period of six weeks from today. Upon deposit being so made, 30% thereof shall be paid to the claimants and 70% shall be invested in some nationalized bank in fixed deposit for a period of three years, initially. Interest accruing on the fixed deposit shall be payable to the respondents-claimants. The respondents are directed to furnish written undertaking before the tribunal that they shall not get the claim petition under section 166 of the Motor Vehicles Act dismissed in default rather shall contest the same on merits.

20.6.2000 (D.C.Srivastava,J.)

(H.K.Rathod,J.)

Vyas